IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.2292 OF 2006

Hindusthan Lever Research
Central Employees Union ..Petitioner.

V/s.

Hindustan Lever Limited ..Respondent.

Mr.Sanjay Sanghvi i/b. Jane Cox for petitioner.

Mr.P.K.Rele, senior counsel with K.M.Naik and R.P.Rele i/b. S.P.Salkar for respondent No.1.

CORAM : V.C.DAGA, J.

DATED : 4TH APRIL, 2006.

P.C. :-

Heard.

2. Rule, returnable forthwith. Mr.Rele, learned senior counsel appearing with Mr.K.M.Naik waives service for the respondent No.1. Heard finally by consent of the parties. Perused petition.

3. This petition is directed against the order dated 21st January, 2006 passed below application Exhibit U/s.9-A in Reference (IT) No.21 of 2001; whereby the prayer of the petitioner Union to frame preliminary issue and decide the same by way of Part 1

award, came to be rejected for the reasons recorded therein.

4. Both the parties during the course of hearing submitted that without going into the merits or demerits of the impugned order; it be set aside and and the petitioner be given the liberty to move fresh application to seek interim relief, if any, bearing in mind the difference between interim relief and interim award; explained by the Apex Court in the case of **Hotel Emperial, New Delhi and others V/s. Hotel Workers Union** reported in **1959 II LLJ 544** (at page 551) in the following words:-

> " The next question is as to how the Tribunal should proceed in the matter if it decides to grant interim relief. The definition of the word "award" shows that it can be either an interim or Final determination either of the whole of the dispute referred to the tribunal or of any question relating thereto. Thus it is open to the tribunal to give an award about the entire dispute at the end of all proceedings. This will be final determination of the industrial dispute referred to it. It is also open to the tribunal to make on award some of the matters referred to it whilst some others still remain to be decided. This will be an interim determination of any question relating thereto. In either case it will have to be published as required by S.17. Such awards are however not in the nature of interim relief for they decide the industrial dispute or some question relating thereto. Interim relief, on the other hand, is granted under the power conferred on the tribunal under S.10(4) with respect to matters incidental to the points of dispute for adjudication."

5. It would be open to the petitioner-union to move proper application with proper prayer to seek interim relief and to contend that it should be decided on the basis of the rival affidavits and documents which the rival parties may produce before the Tribunal, in support of their rival contentions. It would be open for the respondents to oppose interim prayer on any ground available in law.

6. It is left to the discretion of the Industrial Tribunal to decide as to whether it would be proper to decide prayer for interim relief on the basis of the affidavits and / or documents; and / or whether it would be necessary to record oral evidence at the stage of considering prayer for interim relief.

7. The Tribunal in the event decides to consider the application for interim relief, should keep in mind the difference between the interim relief and interim award. The Tribunal is expected to deal with all rival contentions which may be raised by the rival parties with reasoned order. All rival contentions are kept open.

8. The Union undertakes to move an application for interim relief, if advised; within 10 days from

today. After receipt of the copy of the application, it would be open for the respondents to file their reply within 10 days thereafter. The Tribunal to decide the interim prayer as expeditiously as possible, at any rate within 8 weeks (excluding the period of vacation) from the date of completion of the pleadings.

9. The impugned order is set aside in the facts and circumstances of the case as mentioned hereinabove.

10. Petition stands disposed of. Rule is made absolute in the above terms with no order as to costs.

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